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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
(HONORABLE WILLIAM Q. HAYES)

UNITED STATES OF AMERICA,) CASE NO. 08cr1811-WQH
Plaintiff,) DATE: September 2, 2008
v.) TIME: 2:00 p.m.
ANGEL RIOS,)
Defendant.)

**NOTICE OF MOTIONS AND MOTIONS
IN LIMINE TO:**

1) EXCLUDE TECS EVIDENCE PROFFERED BY GOVERNMENT;
2) BAR THE GOVERNMENT FROM INTRODUCING EVIDENCE OF OTHER CRIMES, WRONGS, OR ACTS BESIDES TECS;
3) GOVERNMENT SHOULD BE PRECLUDED FROM INTRODUCING SO-CALLED EXPERT TESTIMONY IN THIS ALIEN SMUGGLE CASE;
4) PRECLUDE INTRODUCTION OF "MUG SHOTS" OF MR. RIOS;
5) JURY SHOULD NOT BE SUBJECTED TO DETAILS OF THE COMPARTMENT CONTAINING THE MATERIAL WITNESS, NOR THE MATERIAL WITNESS' PHYSICAL AND MEDICAL CONDITIONS.
6) EXCLUDE EVIDENCE OF "NERVOUSNESS" BECAUSE IT LACKS PROBATIVE VALUE, IS OVERLY PREJUDICIAL AND LACKS PROPER FOUNDATION;
7) THE CONFRONTATION CLAUSE REQUIRES THAT ANY REFERENCE TO ALIENAGE MUST BE EXCLUDED IF THE MATERIAL WITNESS DOES NOT TESTIFY AT TRIAL;
8) COURT SHOULD NOT EXCLUDE STATEMENTS MADE TO THE MATERIAL WITNESS BY OTHERS BECAUSE SUCH STATEMENTS ARE NOT ADMISSIBLE UNDER FRE 801(d)(2)(E)
9) COURT SHOULD NOT SEND THE INDICTMENT INTO THE JURY ROOM DURING DELIBERATIONS;
10) PRECLUDE THE GOVERNMENT FROM

USING ANY EVIDENCE WHICH HAS NOT
BEEN TURNED OVER TO THE DEFENDANT
AT THIS TIME AS VIOLATIVE RULE 16;
11) PRODUCE GRAND JURY TRANSCRIPTS

TO: KAREN P. HEWITT, UNITED STATES ATTORNEY, AND
PETER MAZZA, ASSISTANT UNITED STATES ATTORNEY

PLEASE TAKE NOTICE that on September 2, 2008 @ 2:00p.m., or as soon thereafter as counsel may be heard, the defendant, Angel Rios, by and through his counsel, Timothy R. Garrison, and Federal Defenders of San Diego, Inc., will ask this Court to enter an order granting the motions listed below.

MOTIONS

10 Mr. Rios, the defendant in this case, by and through his attorneys, Timothy R. Garrison, and Federal
11 Defenders of San Diego, Inc., pursuant to the Fourth, Fifth and Sixth Amendments to the United States
12 Constitution, FED. R. CRIM. P. 12, 16 and 26, and all other applicable statutes, case law and local rules, hereby
13 moves this Court for an order to:

- (1) to exclude tec's evidence proffered by government;
- 2) to bar the government from introducing evidence of other crimes, wrongs, or acts besides tec's;
- 3) to precluded the government from introducing so-called expert testimony in this alien smuggle case;
- 4) to preclude introduction of "mug shots" of Mr. Rios;
- 5) the jury should not be subjected to details of the compartment containing the material witness, nor the material witness' physical and medical conditions.
- 6) to exclude evidence of "nervousness" because it lacks probative value, is overly prejudicial and lacks proper foundation;
- 7) to exclude confrontation clause requires that any reference to alienage if the material witness does not apply at trial;
- 8) to not exclude statements made to the material witness by others because such statements are not excludable under fre 801(d)(2)(e)
- 9) to not send the indictment into the jury room during deliberations;
- 10) to preclude the government from using any evidence which has not been turned over to the

1 defendant at this time as violative rule 16;

2 11) to produce grand jury transcripts.

3 These motions are based upon the instant motions and notice of motions, the attached statement of
4 facts and memorandum of points and authorities, and any and all other materials that may come to this Court's
5 attention at the time of the hearing on these motions.

6 Respectfully submitted,

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8 Dated: August 19, 2008

/s/ Timothy R. Garrison
TIMOTHY R. GARRISON
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Rios

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1 **CERTIFICATE OF SERVICE**

2 Counsel for Defendant certifies that the foregoing pleading is true and accurate to the best
3 information and belief, and that a copy of the foregoing document has been caused to be delivered this day
4 upon:

5 Courtesy Copy Chambers

6 Copy Assistant U.S. Attorney via ECF NEF

7 Copy Defendant

8 Dated: August 19, 2008

/s/ TIMOTHY R. GARRISON
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**STATEMENT OF FACTS AND
MEMORANDUM OF POINTS AND
AUTHORITIES IS HEREBY
INCORPORATED BY REFERENCE TO
DOCKET NO. 26**